Mines and Prospects -- Furnaces and Mil

ONLY ONE LODE AT BINGHAM

Text of the Recent Decision

Finding in the Case of the United States vs. Lawson and Wall.

When Locations Are Made on Same Apex Priority Gives Extralateral Rights.

For the benefit of those interested, The Tribune reproduces in its essential parts, the decision of the United States Circuit Court of Appeals in a case which has been promidently in the eyes of the mining West of late.

The case is that in which the United States Mining company as appellant, prayed for a reversal of the decision awarded by the lower courts, to Leonidas M. Lawson and his associates. The decision of the upper court is that the linestone belt commonly knows as the "Jordan belt," at Hingham, is to be rehis associates, including Col. Enos. A. Wall, field to the opposite, as will be United States company, it is estimated, will add at least \$2,000,000 to its already

cat estate. It is understood that an appeal is to inken to the United States Supreme and by the present appellers, but the miled States Alming people express expressives as having no fear of the re-

The text of the decision is as follows:

Answer of Defendants.

Answer of Defendants.

The answer of defendants specifically denies the allegations of the bill, excepting these relating to diveres citizenshio, and contains afternative allegations substantially as follows before the owners and in the possession of the Kempton and Ashland mining claims, which are adjacent to the Jerdan Extension, Grizzly, Northern Light and Fairwise claims of complainant. The only ore isolies in complainant, add claims are parts of velon or lodes which have their appearant velon of defendants, and which, on their dip beneath the surface, extend toward and through complainant's claims. Defendants entered these ore bodies and extracted and romoved ove therefrom, as they were and are lawfully entitled to do, in pursuance of their right under the mining laws of the United States to follow extralaterally such velos or lodes on their dip.

Review of Testimony.

the mitting laws of the United States to follow extraltanting such value or locks of the Control of the Control

les, the apices of which are within the empton and Ashland. In the assertion of a extralateral rights intended to be soft and austained by their answer and extract, the defendants have extended their derground workings and mining operations to the ore bodies in depute, and have rejected some of them, but others are its yet place and undisturbed, including those unriging the surface of the Fairview. The court dismissed the bill, but filed no dings of fact or opinion disclosing under hat yiely of the facts or of the law the dece of dismissial was rendered.

Limestone One Vein

A careful examination and consideration

The Cross Fissure.

The Cross Fissure.

In addition to the many small fissures which exist only in the limestone and extend in every direction, other ore-bearing fissures of approximatoly a northeely and southerly direction are found in the quartitle, and it is the contention of the defendants that these extend through the limestone; that its subservables is due to them and occurred at the same times and in the same manner as did the deposition of one in them, and that the arm bedies in the limestone are lateral continuations or nipsendages of these cross fissure veins. Of this it is sufficient to ear that, whatever may have been the interestining process, the alternation and misocalization of the limestone were se general and extensive as its convert it into a single broad voin or lade within which the cross fissure veins are without the fine a larger over hodges therein. The over in the quartetic is inconsiderable to manner the first the substantial from the larger over hodges therein. The over in the quartetic is inconsiderable to amount and is confined to these fluster veins, but it is may so in the limestone. In the evidence for the defendants it is conceiled that there are no walls superating the cross fissures from the bodies of ore in the limestone. In the ore in the fissures, and especially is the Ashimal figure. Is distinguishable becomes its

Senior Claim Takes Dip.

Senior Claim Takes Dip.

Where two or more mining claims longitudinally bisect or divide the apex of a vein the soulor claim takes the entire width of the vein on its dip, if it is in other respects as located as to give a right to pursus the vein downwards outside of the side lines. This is so because it has been the custom among miners since before the enactment of the mining laws to regard and treat the vein as a unit and indivisible. In point of width as respects the right to pursus it extrainate all beneath the surface; because usually the width of the vein is so irregular side its strike and dip depart so far from right lines that it is allogether impresticable, if not impossible, to continue the longitudinal bisection at the apex through the vein on its dip or downward source, and hexause it conforms to the principle pervading the mining laws that priority of discovery and of location gives the better right, as is illustrated in the provision giving to the senior claim all ore contained in the space of intersection where two or more veins intensect or cross each other, and in the further provision giving to the senior claim the entire vein at and below the point of union where two or more veins with distinct apices and embraced in separate claims unite in their course downward outside of the side insess in dependent upon the inclusion within the civil wherein it was held that the right to pursue a vein downward outside of the side lines is dependent upon the inclusion within the civil where two collateral locations where the serior and that where two collateral locations better the apex neither takes any part of the vein not vertically beneath its surface (Hall 'as Equator Mining and Smeliting company, Transactions Am. Inst. Min. Reg., Vol. 12, p. 119, but the rule which we have stated scema to us to be surfaced.

THE TRIBUNE NEWS STANDS.

BOSTON—Ctawford Parker.
CHICAGO—Auditorium, Great Northern, Palmer House.
DENVER—Brown Palace.
KANSAS CITY—Midiand Contes.
LOS ANGELES—The Angelus. B. F.
Gardner. 205 Spring street.
MINNEAPOLIS—West Hotel.
NEW YORK—Waldorf-Astoria, Imperial, Astor House.
OMAHA—The Millard. The Paxton.
P. PRILAND. OR.—Portland Hotel.
ST. LOUIS—Planters'. Southern.
SAN PRANCISCO—Palace.
SEATTLE—Hotel Northern.
WASHINGTON—Willard. Raleigh.

Estoppel by Judgment.

Where Estoppel Ends.

Where Estoppel Einds.

But where the second action between the ne parties is upon a different claim or denel the jodgment to the prior action operas an estopped only as to those matin house or points controverted, upon
the land of which the finding or vert was rendered. In all cases, therefore,
ore it is solight to apply the estopped of a
granch rendered upon one cause of action
matters arising in a suit upon a differt cause of action, the inquiry must always
as to the point or question actually litted and determined in the original action,
what calest have been thus litigated and

Why Estoppel Was Sustained.

Why Estoppel Was Sustained.

In that case the estoppel was austained, but it was because the superlority of right asserted and upheld in the course of the patent proceedings had been expressly rested upon the single fact of priority of location. The facts were these. The owner of one claim applied for a patent and the owner of the other filed an adverse claim and communicat an action to determine the right of possession to the area in conflict (Rev. St. Secs. 22), 200.) The judgment lef that action was for the plaintiff and the reason why it was held to operate as in estoppel in the auhecquent action involving a different subject matter is shown in the following extract from the opinion, which has reference to the former as

SCOURING YOUR SCALP

Will Remove the Loose Eandrun Scales, but It Won't Cure

Dandruff.

If your hair is brittle and thinning, you have dandruff. The mere scouring of the scaip of the loose scales, won't care dandruff. It is nothing but scales of scalp being thrown up by a possiferous little germ in burrowing its way to the root of the hair where it saps the vitality, causing folling hair and, in time, baidness. Now you can't stop dandruff nor falling hair, nor prevent baidness unless you destroy that germ, and the only preparation that can do it is the less scientific discovery. Newbro's Herpicide. In fact no other hair preparation claims to kill the dandruff germ—si of them will clean the scalp, soap and water will do that, but only Newbro's Herpicide gets at the root of the trouble and kills the dandruff germ. Soid by leading druggists. Send loc in stamps for sample to The Herpicide Co., Detroit, Mich.

BRISK BUSINESS ON 'CHANGE.

List Showed Activity-Good Advances Recorded and Prices Firm.

Business on the mining stock exchange opened up yesterday with a briskness which has not characterized the calls for some time. During the day a total of 25,000 shares changed hands, the amount received in cash being \$12,843.83.

Among the more active stocks, May Day, Star Con. and New York were con-spicuously in demand at good prices. Daly Judge was active on rumors of discoveries in the Bonanza Flat ground, a block of 400 selling at \$5.50 a share on the morning call. Victoria sold during the afternoon at \$2.20 and was in de-mand. Wabash rose steadily to \$1.01 bld in the afternoon, with \$2 asked. It sold 100 at 55 cents during the afternoon scan. Mammoth was active but scarce \$1.63%. The closing quotations follow:

	Α.	M.,	P.	
	Dird. I	Anked.i	1814	Asked
Alux	\$ 13		\$.11%	\$.15
Allee	130	1649	.30	89
Boston: Con		7.50	6.00	7.25
Bullion-Beck	100	2.00	1.00	(1:50)
Beck Tunnel		16	165	_14
Butler-Liberal	3115	72%	3133	125
Carita	11236	. 14	110	
Con. Mercur	1,5614	.53	2935	
Contury -		-34	107%	
Creole -			000	40
Daly			2.6714	2.70
		5.56	5.75	5.30
Dady-Judge:	(85) (46)	12:50	11.75	13:00
Daly West	111	16.30	.8314	92
Engle & B. B.		.20	.09	
Galena Grand Central	2 0115		3.00	3.37
Grand Central (+)	3,52%		.0115	0.01
Goldfield B,			1.25	
Horn Silver	.01% .01%	.01%	-01	0.5
Ingot	6111	154	10185	702
Little Chief	.02%	-6214	(6)35	-97
Turrie Tures			12	112
1. Mammoth		1.70%	1.55	9 25
Montana-Ton	4.766	1.675	1.55	1.62
Mammath	24%	2416	Date.	
May Day	C. 100			.01
		24		103
New York			3.25	0.05
Ontarle			.03	
Petra		.02%	0.0	-00
R - Anaconda			290	-,60
Sunating	H-41777	.45	.20	.23
Swanera	.25 .05 .10	674	.05	.07
South Swansea	100	_67%	.10	.10
Facrametto	46 65	- m- 100	50.00	65,00
Silver King	50,00	65.00	.14	3.4
Star Con	-1415	14/2	.02%	10
Silver Shield			6.50	-49
Tonogah	9,25	105 7111112	9.00	1000
Tonogan Ilt	100000		.20	1000
Tonopah Mid	11177121-	1000000	11854	-19
Tetro	1,4000	ma 19772	24.15	55.33
Unlied States Uncle Sam Con- Utah	24,00	29.00	359	24
Uncle Sam Con	144.58	12456	25	.50
L'tab	V 1973	1001		
Victoria	2,00	AAAAANA	2.15	
Victoria Victor Con	10072375	1,05	1.01	2.60
Whilehill and contain	12,557.19	1.20		150075
Yankra Con	1 26	29%	_36	AATROL

FORENOON SALES.

OPEN BOARD.

AFTERNOON SALES. Duly, 100 at \$2.60%; 100 at 52.60; 100 at \$2.67%; 6 at \$2.65. Daly-Judge, 106 at \$5.45. Lower Mammoth, 1500 at 13%c, 150 at 13c. Lower Manmonth, 1969 at 174c; 199 at Uncle Sam, 200 at 174c; Victoria, 150 at 27.73, Butler-Liberal, 900 at 13c. Little Chief, 1609 at 274c. New York, 200 at 275c. Wahnah, 160 at 25c, asiler sixty days, Sharis sold, 6550. Selling value, 1954.12.

OPEN BOARD.

Shares sold, 5600, Selling value, \$4799.35.

Ores and Bullion.

San Francisco Mining Stocks. SAN FRANCISCO, Dec. 12.-The official losing quotations for mining stocks today

н	were as follows:	
	Andes \$ 25 Justice	
	Helcher 1 Mexican 1	
	Best & Beicher 1.19 Occidental Con	
	Thiffion 29 Ophir	i
	Caledonia 44 Overman	
	Challenge Con 15 Potest Chellar	
	Confidence S) Seg. Belcher	
	Con. C. & V 1.55 Sterra Nevada	
	Con. Imperial01 Silver Hill	
	Crown Point 15 Union Con	
	Exchequer 42 Utah Con	١
	Gould & Currie I Yellow Jacket	
	Hale & Norcross., 1.10	
	NEW YORK MINING STOCKS.	
H		
	Adams Con \$ 30 Little Chief	

Breese 12 Ophir Brunswick Con. 17 Phoenix Conutteek Tunnet 09 Potosi Con, Calt & Va. 1.79 Savage Horn Silver 1.55 Sierra Nevada Iron Silver 1.90 Small Hopes Leadville Con. 02 Standard					
POSTON MIN	VING STOCKS				
Adventure 5 5 5 5 6 Allouez 17 1 6 6 1 1 1 6 6 6 6 6 6 6 6 6 6 6 6	Mohawk St. M. C. & C. 4 Old Dom. 25 Oscoola 51 Parrot 27 Quincy 108 Shandon 8				

Change in Law Firm.

D. N. Straup withdraws from the law firm of Powers & Straup, on the first day of January, 1905, to assume the duties of Justice of the Supreme court. He will be succeeded by Judge Thomas Marioneaux, of the Fifth Judicial District court, under the firm name of Powers & Marloneaux, Eagle block, corner of West Temple and Second South streets, Salt Lake City.

Merit Tells.

At the banquet given to the President in St. Louis, Pommery was se-lected and served exclusively from among all the other brands of champagne, again demonstrating the fact that Pommery is the standard for champagne quality.

An Original Natural Mineral Water. The Manitou Table Water, Utah Liquor Co., Distr.

Wonderful Showing in the Victoria

Mine to Pay 3 Cent Dividend This Month-Tons of Rich Ore

in Sight.

Victoria will pay a December dividend of three cents a share, to be declared between December 15 and 17, is the ancouncement made by its management.

nouncement made by its management.

A number of prominent mining men visited the property on Sunday and were astounded at the showing in the property. The development work has been carried on for a distance of 286 feet on the vein with the top and bottom a solid mass of high-grade ore. The management has four men working on the vein. There has been no stoping, the ore which has been removed being due entirely to the development work. The vein has not been cross-cut at all but the work has shown it to be at least six feet across. The ore, which is present in such large countities, is a high-grade silver-bearing galena.

The company has enough ore in sight to insure the payment of dividends for months, if this is deemed expedient. The Vetoria is being worked through the Grand Central, a dividend payer which will contribute its alloted quota of cash this month as usual.

MAKING PROGRESS ON TUNNEL

Mt. Masonic Company Prospecting the Silver King Contact.

The tunnel which is being driven from the base of Mt. Masonie, by the mining company of this name, is in over 219

company of this name, is in over 20 feet and is being driven at the rate of six feet a day. The tunnel is to be driven at least 120 feet, prospecing the Silver King contact, or parting velo, and theresetting the cross fissures. The first of these fissures will be encountered about 500 feet from the portal.

The company was formed recently to develop its ground adjoining Park City. Utah, on the north, and covering the west bank of Mount Musanic. It is believed that the Silver King velo extends through this ground for saveral thousand feet. The funnel has a vertical depth of 90 feet, below the highest out-crop of the vein, and the depth along the vein will be about 30 feet.

A. M. Spooner of Salt Lake is the secretary of the company, the other officials and directors being Minnesota poople.

Mining Notes.

The membership of Ben D. Luce on the Salt Lake stock and mining exchange has been purchased by W. H. Alexander. The day's receipts at the Taylor & Brunton sampler amounted to eight cars from Nevada, four from Tirtle and ensean from Bingham and Idaho.

D. C. Jackling, general manager of the Utah Copper company, has returned from a trip to Colorado Springs.

trip to Colorado Springs.

The Ploneer sampler reported three cars fore from Tintic and one from Idaho.

E. S. Crowther, superintendent of the residential group of mining claims, Park ity, is in Salt Lake for a few days on usiness connected with his claims.

William Day of Park City, in the connected with his claims.

William Day of Park City is in town looking after some business interests.

The new tables of the Ontario have arrived and been installed Simen Bamberger left for the Fortuna at Bingham yesterday,

COLORADO EXCURSION

Colorado Excursion via O. S. L. and Union Pacific, December 22 and 23. Round trip only \$22.50. See O. S. L.

NEW SUN

Best present for son or daugh-

Pembroke Stationery Co. 54 W. 2nd South. Phones 758.

Elliott, Williams & Colburn "The Hustlers."

Mines and Mining Stock Bought, Sold and Reported on. Reliable information furnished concern-ing Tenopah and Goldfield districts. GOLDFIELD, NEVADA.

FRED W. DULFER

Representing Starr & Dulfer, Tonopah,

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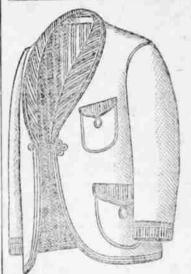
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SPEAKING ABOUT AN APPROPRIATE XMAS CIFT FOR A BOY---

How about a tool chest?

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Tool chests from the wee toy size to the complete outfor for manual training; sleds, skates, and athletic goods at make good Xmas gifts.



In Close Times Nothing Pleases for Xmas Pres BETTER THAN SOMETHING TO WEAR

Here's the list to choose from: BATH ROBES, HOUSE JACKET UMBRELLAS, MUFFLERS, GLOVE FANCY VESTS, SUSPENDERS NECKWEAR, HANDKERCHIER SWEATERS.

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For the next 10 days you need money for Xmax

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By the sid of the Microscope we ask took Calcut. Cancerous Matter. Carbellof Line. Albumen, and all extrass substances mixed with the Urist Blood. This is the scientific principle treating Chronic Diseases.

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